



**COMMONWEALTH OF VIRGINIA
DEPARTMENT OF MEDICAL ASSISTANCE SERVICES**

APPEAL DECISION SUMMARY

APPEAL No: 2011-1384

DATE: September 9, 2011

OUTCOME: (check one)

☐ SUSTAINED ☐ REVERSED ☒ REMANDED
☐ INVALID/FULL
☐ SUSTAINED and REMANDED
☐ REVERSED and REMANDED
☐ AGENCY ERROR/OTHER

ISSUE ON APPEAL: ABD-Resources

GENERAL RULE OF LAW: Standards for resource eligibility

1. United States Code, 42 U.S.C. § 1396a(a)(17)(B) requires a state plan for medical assistance to include:
 reasonable standards . . . for determining eligibility for and the extent of medical began assistance under the plan which . . . (B) provide for taking into account only such income and resources as are . . . available to the applicant or recipient.
2. The State plan must specify that . . . in determining financial eligibility of individuals, the agency will apply the cash assistance financial methodologies and requirements, unless the agency chooses to apply less restrictive allowable income and resource methodologies. If the agency chooses to apply less restrictive income and resource methodologies, the State plan must specify the less restrictive methodologies that will be used, and the eligibility groups to which the less restrictive methodologies will be applied. Code of Federal Regulations, 42 CFR §435.601(f).
3. As a program based on need, Medicaid uses the value of a person's countable resources as one of two financial criteria in determining eligibility. The other criterion is income. Medicaid Manual, Volume XIII, M1110.001, A (p. 1).
4. Resources are cash and any other personal or real property that an individual owns, or has the power to convert to cash and is not legally restricted from using for his support and maintenance. Medicaid Manual, Volume XIII, S1110.100, B, 1, (p. 3).
5. Liquid resources are any resources in the form of cash or in any other form which can be converted to cash within 20 workdays. Absent evidence to the contrary, we assume that checking and savings accounts are liquid resources. Medicaid Manual, Volume XIII, S1110.300, A, 1, (p. 8); S1110.305, B, 1, (p. 8).

6. The eligibility worker must verify the value of all countable, non-excluded resources. Medicaid Manual, Volume XIII, M0130.200, H (p. 8).
7. The countable value of a bank account is the lower of the balance before income is added, or the ending balance minus any income added during the month. Funds cannot be both income and a resource in the same month. Income that has been added to a bank account during the month must be subtracted from the ending balance to ensure that the income is not also counted as a resource. M1110.600, B, 3 (p. 18); M1140.200, B, 5 (p. 18).
8. Assume that the person designated as owner in the account title owns all the funds in the account. In the case of joint accounts, assumed that all the funds in the account belong to the applicant(s) and/or devisor(s) in equal shares. Medicaid Manual, Volume XIII, M1140.200, A, 1 (p. 16); M1140.205, B, 2 (p. 19).
9. When a Medicaid recipient or applicant has a joint bank account with another individual, deposits made to the account by other account holders or interest posted to the account are income to the Medicaid recipient. Medicaid Manual, Volume XIII, S0810.130, A (p. 13).
10. It is important to distinguish between resources and income to know which counting rules to use for any given month. An item is not subject to both income and resources counting rules in the same month. Items received during a month are evaluated under the income-counting rules. Items retained as of the first moment of the month following receipt are subject to evaluation under resource-counting rules. Medicaid Manual, Volume XIII, M1120.005, A, B, 1, 2 (p. 1).
11. A life insurance policy owned by the individual is a resource if it generates a cash surrender value ("CSV"). Its value as a resource is the amount of the CSV. Medicaid Manual, Volume XIII, M1130.300, B, 1 (p. 20).
12. A life insurance policy is an excluded resource, for individuals age 21 and over, if its FV and the FV of any other life insurance policies the individual owns on the same insured total \$1,500 or less. Medicaid Manual, Volume XIII, M1130.300, B, 2 (p. 20).
13. A resource assessment must be completed when an institutionalized spouse with a community spouse applies for Medicaid coverage of long term care services and may be requested without a Medicaid application. A resource assessment is strictly a:
 - compilation of a couple's reported resources that exist(ed) at the first moment of the first day of the month in which the first continuous period of institutionalization began on or after September 30, 1989.
 - calculation of the couple's total countable resources at that point, and
 - calculation of the spousal share of those total countable resources.

A resource assessment does not determine resource eligibility but is the first step in a multi-step process. A resource assessment determines the spousal share of the couple's combined countable resources.

Medicaid Manual, Volume XIII, M1480.220, A (p. 8a)

14. The resource assessment and resource eligibility rules apply to individuals who began a continuous period of institutionalization on or after September 30, 1989 and who are likely to remain in the medical institution for a continuous period of at least 30 consecutive days, or have been screened and approved for Medicaid CBC waiver services, or have elected hospice services. Medicaid Manual, Volume XIII, M1480.220, B, 1 (p. 8a).
15. The spousal share is used in determining the institutionalized individual's resource eligibility. A resource assessment must be completed when a married institutionalized individual with a community spouse who
- is in a nursing facility, or
 - is screened and approved to receive nursing facility or Medicaid CBC waiver services, or
 - has elected hospice services
- applies for Medicaid. The resource assessment is completed when the applicant is screened and approved to receive nursing facility or Medicaid CBC services or within the month of application for Medicaid, whichever is later. Medicaid Manual, Volume XIII, M1480.220, B, 3 (pp. 8a-8b).
16. When both spouses request Medicaid CBC, one resource assessment is completed. The \$2,000 Medicaid resource limit applies to each spouse. Medicaid Manual, Volume XIII, M1480.210, B, 3, c (p. 8b).
17. If a resource assessment was not completed before the Medicaid application was filed, the spousal share of the couple's total countable resources that existed on the first moment of the first day of the first month of the first continuous period of institutionalization that began on or after September 30, 1989, is calculated when processing a Medicaid application for a married institutionalized individual with a community spouse. Medicaid Manual, Volume XIII, M1480.220, B, 1 (p. 13).
18. An individual with countable resources in excess of the applicable limit is not eligible for Medicaid. Medicaid Manual, Volume XIII, M1110.003, B, 1 (p. 2).

AGENCY DECISION: The hearing officer remanded the case to the agency, based upon the following:

The Appellant and her spouse both received community based care as Medicaid Long-Term Care recipients. The Appellant submitted a Medicaid Redetermination of Long Term Care application to the DSS. Since the agency did not complete a resource assessment when the Appellant initially applied for Medicaid coverage of long term care services, the hearing officer remanded the case for further evaluation.

Applicable Law/Regulations/Policy

Code of Virginia,

§32.1-321.1

§32.1-321.2

Medicaid Manual, Volume XIII,

M0510.002, C (p. 2)

M0720.001, B, 1 (p. 1)

M1520.100, A (p. 1)

M1520.200, A (p. 4)

M1520.200, D, 4 (p. 6)

M1700.100, A (p. 1)

M1700.300, B (p. 4)

M1700.400, B (p. 5-6)

M1830.100, E (p. 7)

M2110.100, C (p. 1)

M2130.100, A, 1 (p. 8)

M2130.100, A, 4 (p. 8)

M2100, Appendix 1 (p. 1)